

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CLEVE BILLINGS,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-18-0397-F
)	
BUREAU OF INDIAN AFFAIRS, et)	
al.,)	
)	
Respondents.)	


ORDER

In this matter, petitioner Cleve Billings seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Magistrate Judge’s Report and Recommendation of April 26, 2018 (doc. no. 6) recommends summarily dismissing this matter without prejudice, for failure to exhaust state court remedies.

The magistrate judge stated that any objection to the Report was due by May 17, 2018, and that failure to make timely objection waives the right to appellate review of the factual and legal issues addressed in the Report. Petitioner has now filed a document which the clerk has docketed as a “notice.” Doc. no. 7. The notice states that “Petitioner apologizes to this court for filing this motion without exhausting all state remedies as needed for the § 2254 filed,” and further states that “Petitioner will file this in the proper county court to begin this process, at a later time.” Doc. no. 7. The court interprets the notice as a concession that the Report is correct and that this matter should be dismissed without prejudice for non-exhaustion of state court remedies, as recommended in the Report.

With petitioner having expressed his agreement with the Report, it is clear there is no objection to the Report which, following review, is **ADOPTED**, **ACCEPTED** and **AFFIRMED**. As recommended in the Report, this matter is summarily dismissed without prejudice, for non-exhaustion of state court remedies. Petitioner's request for appointment of counsel is **MOOT**. A certificate of appealability is **DENIED**.

IT IS SO ORDERED this 11th day of May, 2018.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE